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Written statement* submitted by the International Career Support Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[01 September 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Japan's Freedom of Expression

UN Special Rapporteur David Kaye's report on Freedom of Speech in Japan praises Japan's high degree of internet freedom, but expresses great concern regarding the freedom of Japanese broadcast and print media. These views are sharply at odds with the actual situation in Japan, where freedom of expression is not only fully guaranteed by law and custom but fully enjoyed in practice.

In fact, the core basis for this criticism is political opposition to Prime Minister ABE Shinzo by a heavily pacifist media. Mr. Abe's grandfather, KISHI Nobusuke, was prime minister in 1960 when the U.S.-Japan Security Treaty was concluded over the violent protests of pacifist student activists. Many of those activists took up jobs in the media where they promote anti-U.S. and anti-Japanese views. Partly because Mr. Abe has proposed proceeding with amending the Japanese constitution, which prohibits the maintenance of armed forces, they have labelled him a "Nationalist," which in Japanese is a propaganda term meaning not a patriot, but a far-right ideologue who wants to return to wartime militarism, including suppression of free speech. Amending the constitution was his grandfather's dream.

On April 20, 2016, just one day after Professor Kaye issued his Preliminary Report, the Paris-based NGO Reporters without Borders (RWB) announced its annual World Press Freedom Index for 2016 in which Japan was ranked No. 72 in press freedom among 180 countries around the world, just below the United Republic of Tanzania, which came in at No. 71. Japan's ranking by RWB plummeted after 2013 following the inauguration of the Abe administration in December of 2012. Despite being ranked No. 11 in press freedom in 2010, Japan was ranked No. 53 in 2013, No. 59 in 2014, and No. 61 in 2015. RWB's views are clearly based on prejudice against the Abe administration. We are unable to arrive at any other conclusion, as the objective status of freedom of opinion and expression in Japan has remained basically unchanged since Abe's election to the office of prime minister.

RWB's rankings fluctuate widely despite continuity of circumstance, making these rankings unreliable, and useful for little more than political manoeuvring. A much more reliable world freedom ranking is available. According to the "Freedom in the World 2017" report produced by the international NGO Freedom House in January 2017, Japan is ranked No. 12 — higher than Germany (No. 16), the United Kingdom (No. 17), France (No. 27), the United States of America (No. 28), and Italy (No. 29). Freedom House's world rankings are stable and evenhanded, in stark contrast to the oscillations and biases painfully evident in the RWB reports.

It seems to us that Mr. Kaye has been strongly influenced by a handful of anti-Japan extremists living in Japan and abroad, particularly in the US. For example, on May 12, 2016, just a few weeks after the release of his Preliminary Report in Tokyo, Professor Kaye and University of Connecticut Professor Alexis Dudden held a two-person open dialogue titled "Threats to Freedom of Speech in Japan" at the University of California-Irvine. The event was hosted by the *Journal of Asian Studies (JAS)*, which is published by the Association for Asian Studies (AAS). Professor Dudden is notorious as a longtime Japan basher with deep animus towards Prime Minister Abe. In May 2015, Professor Dudden famously used the AAS as her platform for mounting yet another attack on Prime Minister Abe. Professor Kaye thus seems to be in complete alignment with two of the most prominent anti-Japan extremists in the world, RWB and Professor Dudden. This trio is clearly working in tandem to attack Japan. UN Rapporteur Kaye's Preliminary Report, the announcement of RWB's ranking in 2016, and the debriefing summit between Professors Kaye and Dudden all happened within less than a month of each other, between April 19 and May 12 in 2016.

According to some reports, the RWB report was based on an 87-point questionnaire sent to twenty people chosen by RWB. When the media watchdog group Viewers and Listeners for Legal Compliance in Broadcasting (VLLCB) inquired about details of the survey's methodology, RWB replied that it was unable to release any exact information on the number of responders, their names, or the standards by which they were selected. It is truly shocking that an organization which claims to measure and report on "freedom levels" practices such highly arbitrary secrecy. The report is not grounded in a wide array of statistics and facts. Instead, it is the product of "surveys" which change with the choice of respondents and their subjective interpretations.

In anticipation of Mr. Kaye's visit to Japan, RWB issued an article to the effect that they had reported to Mr. Kaye that freedom of the press in Japan was endangered by the Abe administration. However, when VLLCB asked specific, concrete questions as to how freedom of the press is endangered in Japan, the reply they received directed them to refer to Mr. Kaye's interim report for details. This is a perfectly formed tautology, and shows that the conclusion was crafted first and the "facts" shaped to fit it.

Next, Mr. Kaye asserts that the Japanese government exerts undue influence on journalists, but this is entirely false. From April 21 through April 29, 2017, the *Asahi Shinbun*, considered by many to be the most "liberal" daily newspaper in Japan, published interviews with seven newscasters representing every major Japanese TV broadcasting network. In the interviews, not one newscaster replied that he or she had ever experienced external pressure to change his or her reporting or views, and not one of the seven newscasters was anxious about the current situation of freedom of opinion and expression in Japan. In the examples cited by Mr. Kaye, Shuntaro Torigoe said "I heard about pressure." This is only hearsay. Shigetada Kishii stated clearly "I experienced no pressure on me." Shigeaki Koga listed no specific cases of undue pressure. Ichiro Furutachi said "I pretended there were pressures from the government." No credible examples of government pressure have been documented.

Third, RWB and Mr. Kaye speak of latent dangers posed by the *Specifically Designated Secrets Act*. This law was enacted for national security reasons and does not in any way infringe on legitimate freedom of expression. Since its enactment, this law has never been used to suppress free speech. Mr. Kaye has not given any objective transnational comparisons of the protection of classified information, so we can only conclude that he is simply parroting the denunciations, utterly lacking in objectivity, of the law's critics in Japan.

Fourth, print media in Japan is under no restrictions whatsoever. Broadcast media is, however, asked to abide by the *Broadcast Law*, article 4 which provides that political reports should include a variety of views as a condition for exclusive use of the government-owned airwaves. Mr. Kaye expresses concern that the Ministry of Internal Affairs and Communications (MIAC) could punish a broadcasting company which violated these provisions, including by suspending the company's broadcast license, selectively citing diet testimony from MIAC Minister Sanae Takaichi in response to hypothetical questions. However, despite the existence of this law, it has long been a view taken for granted in Japan that the government has no business interfering in broadcasting, and even when reporting serves to disseminate errors widely, there are no calls to invoke the sanctions which Mr. Kaye fears.

Before the release of David Kaye's Draft Report on May 29, 2017, unprecedented numbers of rebuttals from Japan were issued against his Preliminary Report in April 2016. Viewers and Listeners for Legal Compliance in Broadcasting issued two documents, "Open Letter to David Kaye" and "Statement on RWB Press Freedom Index and on David Kaye," in January 2017, while the Alliance for Truth about Comfort Women issued its "Open Letter to David Kaye's Preliminary Report" in February 2017. Forty-six Japanese academics, led by Academics' Alliance for Correcting Groundless Criticisms of Japan (AACGCJ), issued two documents, "Statements on David Kaye's Preliminary Report" and "Open Letter to UN High Commissioner for Human Rights Prince Zeid," on May 2, 2017. Moreover, on May 30, 2017 the Japanese government issued 17 pages of very detailed comments on Kaye's Draft Report.

In Japan, pressure on journalists is exerted by political, ethnic, and commercial special interest groups, including foreign countries such as China, as well as other journalists with opposing political views. In a free and open society, such free and open discussion should be welcomed, not condemned. It is the job of journalists to receive such criticism and reply in a reasoned way. The government should also be free to express its own opinions, which the media may then evaluate. This free exchange which occurs in Japan should be welcomed as a manifestation of a mature democracy.

Mr. Kaye's report completely misrepresents the current state of freedom of expression in Japan. We urge the United Nations to examine Mr. Kaye's report and all other such reports carefully to ensure that they are accurate and objective.